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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,483	12/20/2001	James Beriker	63030.800US01	5460

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EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/029,483	Applicant(s) BERIKER, JAMES	
	Examiner Stephan F. Willett	Art Unit 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

IDS

1. The IDS filed on 11/25/02 referenced numerous other documents. The Office does not have copies of said documents, thus would you please provide copies of the documents listed in said IDS.

Claim Rejections - 35 USC 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over McBrearty with Patent Number 6,823,491 in view of Boyd et al. with Patent Publication US2004/0193489.

1. Regarding claim(s) 1, 5, McBrearty teaches a search referral module[Yahoo search engine] that analyzes[by relevance] the user's search request as the "the search engine then returns pages", col. 3, line 43-44 based on pages "that appear to be relevant", col. 3, lines 44-45 based on a web browser running on a user's computer and Yahoo Company is the "referral provider". McBrearty teaches at least one traffic management parameter[user's search terms], col. 3 lines 40-46. McBrearty teaches the referral mode routes traffic to the designated location by the search engine, col. 3, lines 48-49.

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2. McBrearty teaches the invention in the above claim(s) except for explicitly teaching establishing an account for the referral provider, wherein the account includes an account name, unique identifier and password.

3. In that McBrearty operates refer a specific site, the artisan would have looked to the network referral arts for details of implementing an account for a referrer. In that art, Boyd, a related network application hosting system, teaches "the user would register himself ... to set up an account", para. 0032, lines 4-6 in order to take advantage of the service provided. Boyd specifically teaches "user name, ID, password", para. 0092, lines 9-10. Further, Boyd suggests "the sellers need to register and set up an account", para. 107, lines 3-4 will result from implementing the service and accounts.

4. The motivation to incorporate account information insures that the service provider receives remuneration.

5. Thus, it would have been obvious to one of ordinary skill in the art to incorporate establishing an account for the referral provider, wherein the account includes an account name, unique identifier and password for a user as taught in Boyd into the referral system described in the McBrearty patent because McBrearty operates with hosting accounts and Boyd suggests that an account would be used to record the users' data or to enable access to Yahoo services.

Therefore, by the above rational, the above claim(s) are rejected.

6. Regarding claim(s) 2, McBrearty teaches management parameters comprise designated target location as a site specific URL and key search terms col. 5, lines 1-4.

7. Regarding claim(s) 3, McBrearty the referral mode routes traffic to the designated location, col. 5, lines 12-14.

8. Regarding claim(s) 4, McBrearty teaches the search request comprises a set of user defined terms, col. 4, lines 6-10 and the referral module compares the search terms with predefined key terms, col. 5, lines 2-6.

Response to Amendment

1. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "McBrearty does not disclose dynamic traffic management as claimed", "predefined preferences", Paper Dated 10/3/05, Page 23, lines 17-21) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, Applicant's arguments can not be held as persuasive regarding patentability.

3. Applicant suggests their application "McBearty does not disclose a referral provider", Paper Filed 10/3/05, Page 3, line 21. However, McBearty teaches "Yahoo", col. 3, line 42. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire THREE

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MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (571)272-3890. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-2100.

sfw

January 5, 2006



ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER